IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2993 of 1999

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

C SADANANDAN

Versus

INDIAN PETROCHEMICALS CORPORATION LTD.

Appearance:

MR PR THAKKAR for Petitioner No. 1

MR SN SHELAT, Learned Senior Counsel with

MR H.A. DAVE for MR DEVANG NANAVATI for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 17/08/2004

ORAL JUDGEMENT

1. The petitioner herein has prayed for a direction to respondent to grant promotion to the petitioner to the post of Senior Officer with effect from the date on which the juniors of the petitioner have been promoted to the

post of Senior Officer and all the benefits flowing therefrom.

2. The petition is filed against Indian Petrochemicals Corporation Limited.

3. Mr. Rohit S. Vyas, Deputy Manager (Legal) of the respondent has filed affidavit in reply wherein it is stated as under:

> "1. I submit that the respondent Corporation is no longer a Government Company. I submit that 26% of the shares have been sold by the Government of India to M/s Reliance Petroinvestments Limited. The respondent Corporation is not a Government Company any longer. It is not a Public Sector Undertaking. This Hon'ble Court may not entertain the present Appeal since the respondent Corporation is not "State" within the meaning of Article 12 of the Constitution."

4. In view of the above statement the present petition is not maintainable under Article 226 of the Constitution of India. Learned counsel for the petitioner has fairly conceded to the said position. He submitted that under the circumstances the present petition may be disposed of without entering into the merits of the case as the petitioner is required to approach the Civil Court to redress his grievances voiced in this petition. He further submitted that appropriate directions may be given so that the limitation would not come in the way of the petitioner in the civil suit.

5. In the premises aforesaid, the petition is disposed of as not maintainable without entering into the merits of the case. The present petition has been filed on 5th April 1999 and the same is disposed of as aforesaid today in view of the aforesaid circumstances. Therefore, if the petitioner approaches the Civil Court within a month from today, the period of limitation may not come in the way of the petitioner and the Civil Court shall entertain the civil suit on merits. If the civil suit is filed as aforesaid, since it is an old matter, the Civil Court shall expedite the hearing of the same. Subject to the aforesaid observation and direction, rule is discharged with no order as to costs.

[K.S. JHAVERI, J.]

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